

AMENDED IN ASSEMBLY AUGUST 7, 2006

AMENDED IN SENATE MARCH 20, 2006

SENATE BILL

No. 1308

Introduced by Senator Battin
(Coauthor: Assembly Member Leno)

February 16, 2006

An act to amend Sections 85, 86, and 88 of the Penal Code, relating to ~~bribery~~ *bribery, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1308, as amended, Battin. Bribery.

Existing law subjects a person who offers to give a bribe to a Member of the Legislature or a person on the member's behalf, or who attempts through specified corrupt means to influence the vote of a member, to imprisonment in the state prison.

This bill would, in addition, subject a person who offers to give a bribe to any member of the legislative body of a city, county, city and county, school district, or other special district, or a person on the member's behalf, or who attempts through specified means to influence the vote of any member of a legislative body of a city, county, city and county, school district, or other special district, to imprisonment in the state prison.

Existing law subjects any Member of the Legislature who asks for or receives a bribe in exchange for influence over his or her official action to imprisonment in the state prison.

This bill would, in addition, subject any member of the legislative body of a city, county, city and county, school district, or other special

district who asks for or receives a bribe in exchange for influence over his or her official action to imprisonment in the state prison.

Existing law requires any Member of the Legislature convicted of a crime involving bribery to forfeit his or her office and disqualifies him or her from ever holding office again.

This bill would, in addition, require any member of the legislative body of a city, county, city and county, school district, or other special district who is convicted of a crime involving bribery to forfeit his or her office and would disqualify him or her from ever holding office again.

Because this bill would expand the applicability of certain crimes, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that is to take effect immediately as an urgency statute.

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 85 of the Penal Code is amended to
2 read:

3 85. Every person who gives or offers to give a bribe to any
4 Member of the Legislature, any member of the legislative body
5 of a city, county, city and county, school district, or other special
6 district, or to another person for the member, or attempts by
7 menace, deceit, suppression of truth, or any corrupt means, to
8 influence a member in giving or withholding his or her vote, or in
9 not attending the house or any committee of which he or she is a
10 member, is punishable by imprisonment in the state prison for
11 two, three or four years.

12 SEC. 2. Section 86 of the Penal Code is amended to read:

13 86. Every member of either house of the Legislature, or any
14 member of the legislative body of a city, county, city and county,
15 school district, or other special district, who asks, receives, or

1 agrees to receive, any bribe, upon any understanding that his or
2 her official vote, opinion, judgment, or action shall be influenced
3 thereby, or shall give, in any particular manner, or upon any
4 particular side of any question or matter upon which he or she
5 may be required to act in his or her official capacity, or gives, or
6 offers or promises to give, any official vote in consideration that
7 another Member of the Legislature, or another member of the
8 legislative body of a city, county, city and county, school district,
9 or other special district shall give this vote either upon the same
10 or another question, is punishable by imprisonment in the state
11 prison for two, three, or four years and, in cases in which no
12 bribe has been actually received, by a restitution fine of not less
13 than two thousand dollars (\$2,000) or not more than ten thousand
14 dollars (\$10,000) or, in cases in which a bribe was actually
15 received, by a restitution fine of at least the actual amount of the
16 bribe received or two thousand dollars (\$2,000), whichever is
17 greater, or any larger amount of not more than double the amount
18 of any bribe received or ten thousand dollars (\$10,000),
19 whichever is greater.

20 In imposing a fine under this section, the court shall consider
21 the defendant's ability to pay the fine.

22 SEC. 3. Section 88 of the Penal Code is amended to read:

23 88. Every Member of the Legislature, and every member of a
24 legislative body of a city, county, city and county, school district,
25 or other special district convicted of any crime defined in this
26 title, in addition to the punishment prescribed, forfeits his or her
27 office and is forever disqualified from holding any office in this
28 state or a political subdivision thereof.

29 SEC. 4. No reimbursement is required by this act pursuant to
30 Section 6 of Article XIII B of the California Constitution because
31 the only costs that may be incurred by a local agency or school
32 district will be incurred because this act creates a new crime or
33 infraction, eliminates a crime or infraction, or changes the
34 penalty for a crime or infraction, within the meaning of Section
35 17556 of the Government Code, or changes the definition of a
36 crime within the meaning of Section 6 of Article XIII B of the
37 California Constitution.

38 SEC. 5. *This act is an urgency statute necessary for the*
39 *immediate preservation of the public peace, health, or safety*

1 *within the meaning of Article IV of the Constitution and shall go*
2 *into immediate effect. The facts constituting the necessity are:*
3 *In order to halt an existing and ongoing misuse of power by*
4 *county officials with regard to control over local officials it is*
5 *necessary that this act take effect immediately.*

O